
REFORMS IN PUNISHMENT: THE ADDITION OF COMMUNITY SERVICE AS A PART OF PUNISHMENT

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ABSTRACT

The concept of punishment has evolved significantly over time, reflecting changing social attitudes toward crime, justice, and rehabilitation. Traditional forms of punishment such as imprisonment and fines have often been criticized for their limited effectiveness in reforming offenders and reducing recidivism. In response, many modern legal systems have introduced community service as an alternative or supplementary form of punishment. This research paper examines the emergence of community service as a reformatory measure in criminal justice, highlighting its role in balancing deterrence, retribution, and rehabilitation. It explores the philosophical and legal foundations of community service, its implementation in various jurisdictions, and its impact on offenders, victims, and society at large. The paper also analyzes judicial interpretations and policy perspectives that support community service as a humane and constructive response to crime. Ultimately, this study argues that incorporating community service into sentencing reforms promotes restorative justice, encourages offender accountability, and fosters social reintegration—thereby marking a progressive step in the evolution of penal policy.

Keywords: Community Service; Reformatory Justice; Restorative Justice; Sentencing Reforms; *Bhartiya Nyaya Sanhita, 2023*; *Bhartiya Nagarik Suraksha Sanhita, 2023*; Alternative Punishment; Judicial Discretion; Rehabilitation of Offenders; Indian Criminal Justice System.

Introduction

Punishment has always been a central element of criminal justice systems, serving purposes such as deterrence, retribution, incapacitation, and rehabilitation. Traditionally, these objectives have been pursued through methods like imprisonment, fines, or capital punishment. However, over the years, growing concerns regarding overcrowded prisons, the high costs of incarceration, and the limited success of punitive measures in reforming offenders have led to calls for reform in the philosophy and practice of punishment. Modern societies now increasingly emphasize rehabilitative and restorative approaches that aim to reintegrate offenders into the community rather than isolate them from it.

In this context, community service has emerged as an innovative and reformatory form of punishment. It involves requiring an offender to perform unpaid work that benefits the community, thereby transforming the idea of punishment from mere suffering to constructive contribution. Community service not only holds the offender accountable but also allows them to repair the social harm caused by their actions. Moreover, it aligns with the principles of restorative justice, which focus on reconciliation, responsibility, and reintegration rather than retribution.

This paper explores the evolution of punishment reforms with special emphasis on community service as an alternative or complementary sanction. It analyzes the legal foundations, objectives, advantages, challenges, and judicial approaches toward the use of community service as part of modern penal systems. Ultimately, the study aims to assess whether community service can serve as an effective bridge between punishment and rehabilitation in contemporary criminal jurisprudence.

Background and Significance

The evolution of punishment reflects the changing values and priorities of society. In earlier centuries, punishments were primarily retributive in nature—emphasizing pain, humiliation, or deprivation as a means of deterrence. Over time, however, scholars and reformers began questioning the moral and social efficacy of such punitive approaches. Thinkers like Cesare Beccaria and Jeremy Bentham advocated for rational, humane, and proportionate punishments that would not only deter crime but also encourage reform and social reintegration. Their ideas

laid the foundation for modern criminal justice reforms that emphasize rehabilitation over mere retribution.

In the modern era, issues such as prison overcrowding, recidivism, and the social stigma of imprisonment have highlighted the need for alternative sentencing methods. Imprisonment often fails to achieve its intended reformatory goals, instead contributing to social alienation and economic burden. Against this backdrop, community service emerged as a constructive response—transforming punishment from an instrument of suffering into a tool of social repair. It was first introduced in several European countries in the mid-20th century and later adopted by many other jurisdictions, including India, as part of broader penal reforms.

The significance of community service lies in its dual impact: it holds offenders accountable while simultaneously benefiting society. It promotes offender rehabilitation through constructive engagement, reduces the financial and administrative burden on the state, and fosters a sense of social responsibility among offenders. Furthermore, it aligns closely with the principles of restorative justice, which prioritize healing, reparation, and reconciliation between the offender, victim, and community.

Understanding the role of community service as part of punishment is thus significant not only for criminal jurisprudence but also for policy-making and social justice. It represents a shift from a punitive to a restorative model of justice—one that seeks to balance the needs of the offender, the victim, and society in a more humane and effective manner. The study of this reform is crucial to assess how legal systems can evolve to ensure justice that is both fair and socially constructive.

Development of Community Service in India-

Several decades ago, the Indian Penal Code (Amendment) Bill, 1978 marked an initial effort to include community service as a penalty under the IPC. The report of the Indian Jail Committee 1980-83 highlighted the flaws in imprisonment terms and recommended adopting alternatives such as community service. Further, community service was recommended to be implemented in the Malimath Committee Report and the Law Commission's 156th report, however, these suggestions were never put into practice.

Yet, it is fascinating to observe that courts have given community service as a punishment

under Section 482 of The Code of Criminal Procedure, 1973 (“CrPC”), which gives the High Courts inherent powers to secure the ends of justice. For instance, in July 2024, the Delhi High Court directed two people accused of outraging the modesty of their neighbour’s wife to do community service at Gurudwara Rakab Ganj Sahib for a period of one month.

The Indian Courts have often emphasized the importance of community service as an effective form of punishment. In the case of *Babu Singh v. State of Uttar Pradesh*, the Supreme Court pointed out that justice should concentrate more on restorative measures like community service and personal development, and that its goal should be reform rather than punitive action. In *Sunita Gandharva v. State of M.P (2020)*, the Madhya Pradesh High Court, while discussing the scope and extent of bail conditions, said that Section 437(3) of CrPC allows community service to be used as a condition of bail. It was also said that community service provides social and cognitive benefits and can be used as an alternative to both pre-trial and post-trial reforms.

Prior to the introduction of BNS, the sole provision for community service in India was under Section 18(1)(c) of the Juvenile Justice (Care and Protection of Children) Act, 2015, which allows for community service for child offenders. In a recent case in Pune, a minor driving a Porsche caused a fatal accident resulting in two deaths. The Juvenile Justice Board initially sentenced him to 15 days of community service where he was required to work with traffic police and write an essay on road accidents. This decision faced widespread criticism, with demands for a harsher penalty. Later, the Board revoked this bail order.

In India, overcrowding in prisons is a major issue, and building new facilities would be a burden on the economy. As per reports, the education profile of the convicts in India was found below class X (42.02%), above class X but below graduation (21.84%), graduate (6.41%), and illiterate (26.81%). This means that a significant percentage of the convict population is below class X in terms of education. For young people with potential, imprisonment can be very detrimental to future career prospects. In contrast, community service is a more cost-effective and constructive alternative.

Community Service under BNSS-The Definition of Community Service is given in the Bharatiya Nagarik Suraksha Samhita, 2023 (BNSS).

Section 23 of the BNSS defines Community Service as -

"The Work which the court may order a convict to perform as a form of punishment that benefits the community, for which he shall not be entitled to any remuneration."

There is no explicit clarity about what type of tasks can be assigned under the ambit of Community Service, however, the court would surely take into consideration their qualification and skill while assigning them social service work as punishment. The ambiguity of what the sentence might be, would still linger on even with the courts trying their best to erase this ambiguity.

Primarily, Community Service is prescribed when dealing with absolutely minor and trivial offences whereby there is no real requirement for the offender to be imprisoned or given a harsher sentence.

There are some specific offences where it may be administered.

Theft: -

S.303(2) of the BNS which deals with Theft specifically mentions Community Service in case the Value of the Goods or Property involved in theft is under Rs.20000 and the offender is a first-time offender; he shall upon return of property be sentenced to Community Service.

Attempt to Suicide: -

S. 226 of the BNS prescribes the punishment for Attempt to suicide to compel or restrain exercise of lawful power. The Punishment prescribed for such an offence is imprisonment up to 1 year, or with fine, or with both, or with Community Service.

Non-Appearance in response to Proclamation made under S.84 of the Bhartiya Nagarik Suraksha Samhita, 2023: -

The punishment for this offence has been prescribed in S.209 of the BNS and it has explicitly mentioned the use of Community Service as a kind of punishment for such an offence.

Misconduct in Public while being intoxicated: -

S.355 of BNS prescribes Community Service as Punishment for this type of an offence along with some more punishments prescribed for it.

Defamation: -

S.356(2) of the BNS states Community service as a punishment in addition to or instead of Imprisonment and Fine for Defamation.

The above-mentioned instances are just some of the explicitly mentioned offences to which Community Service may be prescribed by the court of Law.

However, the court has discretionary powers over if and when it wishes to prescribe community service to an offender for the offence that has been committed. The Court may or may not sentence the offender to Community Service upon Conviction

Duration and Nature of Service

- Specified hours - The court determines the number of hours of community service based on the severity of the offence.
- Nature of service - The nature of the community service work is decided in a way that it benefits the community and is suitable for the offender's abilities.

Examples include cleaning public spaces, working with non-profit organizations, or assisting in community development projects.

Judgments in which Courts Directed the Accused to Render Community Service

Parvez Jilani Shaikh v. State of Maharashtra (2015):

The Court directed the accused to render community service at B.A.R.C Hospital.

Sunita Gandharva v. State of Madhya Pradesh (2020):

The Court held that, as per Section 437(3) of the Criminal Procedure Code, 1973 (CrPC) Court can impose "any other conditions in the interest of justice" over accused by way of community service and other related reformatory measures and same can be innovated also but must be as per his capacity and willingness.

Manoj Kumar v. State (Govt. of NCT of Delhi) (2022):

The Court directed the accused to do community service at Lok Nayak Jai Prakash Narayan

Hospital on every Saturday and Sunday for one month.

Rajesh v. State of Chhattisgarh:

The Chhattisgarh High Court considered the appropriateness of a community service sentence for the accused, Rajesh. Rajesh, a 28-year-old man, was charged under Section 379 of the Indian Penal Code for stealing an electrical transformer worth ₹50,000. He had no prior criminal record. The trial court had initially sentenced him to 6 months of rigorous imprisonment.

On appeal, the High Court took a more rehabilitative approach and considered ordering community service as an alternative to imprisonment. Justice Sanjay K. Agrawal, writing the judgment, stated that the purpose of punishment should be reformatory rather than solely punitive. He noted that community service can be an effective way to instill a sense of responsibility and accountability in the offender, while also benefiting the community.

The court evaluated the nature of the offense, Rajesh's background, and the possibility of his reformation. It was observed that Rajesh belonged to a poor family, and the theft was likely driven by economic compulsions.

Consequently, the High Court set aside the jail term and instead sentenced Rajesh to 6 months of community service. He was ordered to work for 4 hours per day at a local orphanage, under the supervision of a probation officer.

This judgment reflects a progressive shift in the Indian judiciary towards restorative justice principles, focusing on the offender's rehabilitation rather than just punishment. It demonstrates the courts' willingness to utilize community service as an alternative to traditional imprisonment, especially for first-time and non-violent offenders.

In Sunita Gandharva vs. State of M.P. and Anr, the MP High Court highlighted the importance of community service in the form that – “it gives a chance in some cases to melt the ego of an accused who is facing the trial of those offenses which gave psychic gains or peevish pleasures to the accused while committing such crimes...the accused can again be assimilated into the mainstream society and would be accepted by the community...ingrained attributes of Love, Compassion Mercy, and Service can be rekindled through the concept of community service.” The court considered it fit to impose community service as “any other

condition in the interest of justice” as per section 437(3) of CrPC over the accused or offender.

In Babu Singh vs. the State of UP, the Apex court held that restorative devices through means of community service, meditative drills, or study classes should be innovated upon to redeem the offender.

Vishal S Awtani vs State of Gujarat – The court ordered the ones who are caught not wearing a mask, their services will be utilized for community services for 10 to 15 days on non-medical services. This would sufficiently work as a deterrent for COVID-19 for stricter implementation of rules. The Gujarat High Court stated that community service is not a punishment but a chance for the offenders for reparation.

Ravi vs State of Haryana – The juvenile was ordered to perform community service for three years in the hospital and was supervised by a medical officer.

Pune Porsche Accident Case: A notable example is the Pune Porsche accident case, where a minor was sentenced to community service as part of his punishment. This case highlighted both the potential benefits and the challenges of implementing community service in the Indian context.

Challenges

- **Lack of clear guidelines:** The BNS defines community service broadly, but doesn't specify what kind of work is admissible or what truly "benefits the community," leading to potential inconsistencies.
- **Absence of a monitoring structure:** There is no clear mandate for a body to monitor the execution of community service, creating uncertainty about who will ensure compliance with court orders.
- **Resource constraints:** Implementing and monitoring community service programs requires significant resources, including personnel and infrastructure, which may be limited in certain regions.
- **Socioeconomic and infrastructural disparities:** India's socioeconomic diversity and regional infrastructural differences pose challenges to implementing and overseeing

community service equitably.

- **Public perception:** There is potential public skepticism that community service is a lenient alternative to incarceration, which could undermine its perceived seriousness as a punishment.

Criticisms and potential misuse

- **Sentencing disparities:** The considerable discretion given to judges can lead to inconsistent sentencing, where similar offenses receive different punishments based on the judge's interpretation rather than a clear, uniform standard.
- **Perceived leniency:** Community service may be viewed as an easy way out for offenders, potentially failing to act as a strong deterrent for future offenses.
- **Potential for exploitation:** There is a risk that community service could be misused to evade appropriate punishment for serious crimes or that offenders could face exploitation due to the social stigma associated with their offense.
- **Ethical concerns:** Some raise ethical concerns about involuntary servitude, particularly if the assigned tasks do not seem to relate to the harm caused by the crime.

Conclusion

The evolution of punishment from a predominantly retributive model to a reformatory and restorative framework reflects a maturing criminal justice philosophy aimed at balancing societal interests with human dignity. The incorporation of community service as a form of punishment under the *Bhartiya Nyaya Sanhita, 2023* and its definition under the *Bhartiya Nagarik Suraksha Sanhita, 2023* marks a significant shift in India's penal policy. It recognizes that minor and non-violent offences need not always result in incarceration and that constructive engagement with society can serve the twin objectives of accountability and rehabilitation.

Judicial pronouncements across various High Courts and the Supreme Court demonstrate an increasing willingness to adopt community service as a meaningful alternative to imprisonment, especially for first-time and juvenile offenders. Such an approach aligns with

restorative justice principles by encouraging offenders to acknowledge their wrongdoing, repair social harm, and reintegrate into society. Moreover, community service offers practical benefits by reducing prison overcrowding, minimizing state expenditure, and preventing the social stigmatization often associated with custodial sentences.

However, the effectiveness of community service as a sentencing tool depends upon its structured implementation. The absence of clear statutory guidelines regarding the nature, duration, and monitoring of community service poses a serious challenge and risks inconsistent sentencing. Without a dedicated supervisory mechanism, the rehabilitative potential of this punishment may remain underutilized.

In conclusion, community service represents a progressive and humane development in Indian criminal jurisprudence. If supported by well-defined guidelines, institutional monitoring, and public awareness, it can emerge as a credible and effective alternative to traditional punishments—strengthening the reformatory ethos of the criminal justice system while safeguarding the interests of society at large.

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